

32B-1-603 Power of the commission and department to classify flavored malt beverages.

- (1) The commission and department shall regulate a flavored malt beverage as liquor.
- (2)
 - (a) The department shall make available to the public on the Internet a list of the flavored malt beverages authorized to be sold in this state as liquor.
 - (b) The list described in Subsection (2)(a) shall be updated at least quarterly.
- (3)
 - (a) A manufacturer shall file, under penalty of perjury, a report with the department listing each flavored malt beverage manufactured by the manufacturer that the manufacturer wants to distribute in this state subject to the manufacturer holding:
 - (i) a brewery manufacturing license issued in accordance with Chapter 11, Part 5, Brewery Manufacturing License; or
 - (ii) a certificate of approval.
 - (b) A manufacturer may not distribute or sell in this state a flavored malt beverage if the manufacturer does not list the flavored malt beverage in a filing with the department in accordance with this Subsection (3) before distributing or selling the flavored malt beverage.
- (4) The department may require a manufacturer of a flavored malt beverage to provide the department with a copy of the following filed with the federal Alcohol and Tobacco Tax and Trade Bureau, pursuant to 27 C.F.R. Sec. 25.55:
 - (a) a statement of process; or
 - (b) a formula.
- (5)
 - (a) A manufacturer of an alcoholic product that the department is classifying or proposes to classify as a flavored malt beverage may submit evidence to the department that its alcoholic product should not be treated as liquor under this section because the alcoholic product:
 - (i) is obtained by fermentation, infusion, or decoction of a malted grain;
 - (ii) is produced by processing, filtration, or another method of manufacture that is generally recognized as a traditional process in the production of beer as described in 27 C.F.R. Sec. 25.55;
 - (iii) does not have added to it a flavor or other ingredient containing alcohol, except for a hop extract; and
 - (iv)
 - (A) is not one for which the producer is required to file a formula for approval with the federal Alcohol and Tobacco Tax and Trade Bureau pursuant to 27 C.F.R. Sec. 25.55; or
 - (B) is exempt under Subdivision (f) of 27 C.F.R. Sec. 25.55.
 - (b) The department shall review the evidence submitted by the manufacturer under this Subsection (5).
 - (c) The department shall make available to the public on the Internet a list of the alcoholic products authorized under this Subsection (5) to be sold as beer in this state.
 - (d) A decision of the department under this Subsection (5) may be appealed to the commission.

Enacted by Chapter 276, 2010 General Session